

Introduced by Senator Hancock

February 12, 2010

An act to amend Section 12811.1 of the Public Utilities Code, relating to utility charges.

LEGISLATIVE COUNSEL'S DIGEST

SB 1035, as introduced, Hancock. Municipal utility district: utility charges: delinquencies.

The existing Municipal Utility District Act authorizes the formation of a municipal utility district. The act authorizes a district to acquire, construct, own, operate, control, or use works for supplying the inhabitants of the district and public agencies with light, water, power, heat, transportation, telephone service, or other means of communication, or means for the collection, treatment, or disposition of garbage, sewage, or refuse matter. The act authorizes a municipal utility district, by resolution or ordinance, to require the owner of record of privately owned real property within the district to pay the fees, tolls, rates, rentals, or other charges for certain utility services rendered to a lessee, tenant, or subtenant, and provides that those charges that have become delinquent, together with interest and penalties, are a lien on the property when a certificate is filed by the district in the office of the county recorder and that the lien has the force, effect, and priority of a judgment lien. The act exempts water and sewer services to residential property and electrical services from this provision.

This bill, in addition to the above-described methods for collecting delinquent charges, would establish procedures for a municipal utility district to collect delinquent fees, tolls, rates, rentals, or other charges, together with interest and penalties thereon, for services rendered to a lessee, tenant, or subtenant, through the tax roll, in the same manner as

property taxes. The bill would authorize a municipal utility district to collect delinquent fees, tolls, rates, rentals, or other charges, together with interest and penalties thereon, for services rendered to a lessee, tenant, or subtenant, by recording in the office of the county recorder of the county in which the affected parcel is located, a certificate declaring the amount of the delinquent charges, together with interest and penalties thereon, which would then constitute a lien against the affected real property of the delinquent property owner in that county and have the force, effect, and priority of a judgment lien. The bill would delete the above-described exemption for water and sewer services to residential property, thereby exempting only electrical services from these collection provisions. By requiring county auditors and recorders to undertake certain actions in response to the exercise of collection measures by a municipal utility district, the bill would impose a state-mandated local program. The bill would require a municipal utility district that exercises these collection measures to reimburse the county for the reasonable expenses incurred by the county.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 12811.1 of the Public Utilities Code is
2 amended to read:
3 12811.1. (a) A district may, by resolution or ordinance, require
4 the owner of record of real property within the district to pay the
5 fees, tolls, rates, rentals, or other charges for services rendered to
6 a lessee, tenant, or subtenant, and those fees, tolls, rates, rentals,
7 and other charges that have become delinquent, together with
8 interest and penalties thereon, are a lien on the property when a
9 certificate is filed in the office of the county recorder pursuant to
10 subdivision (b) and the lien has the force, effect, and priority of a
11 judgment lien. No lien may be created under this section on any
12 publicly owned property.

(b) A lien under this section attaches when the district files for recordation in the office of the county recorder a certificate specifying the amount of the delinquent fees, tolls, rates, rentals, or other charges together with interest and penalties thereon; the name of the owner of record of the property to which services were rendered by the district; and the legal description of the property. Within 30 days of receipt of payment of all amounts due, including recordation fees paid by the district, the district shall file for recordation a release of the lien.

(c) *A district may, by resolution or ordinance, provide that any delinquent fees, tolls, rates, rentals, or other charges, together with interest and penalties thereon, including any delinquent fees, tolls, rates, rentals, or other charges for services rendered to a lessee, tenant, or subtenant, may be collected on the tax roll in the same manner as property taxes. Before any entity may collect any delinquent fees, tolls, rates, rentals, or other charges, together with interest and penalties thereon, including any delinquent fees, tolls, rates, rentals, or other charges for services rendered to a lessee, tenant, or subtenant on the tax roll, the district shall prepare a report, provide notice, conduct a public hearing, and file a certificate in the office of the county recorder, as follows:*

(1) The general manager shall prepare and file with the district board of directors a report that describes each affected parcel of real property and the amount of the delinquent fees, tolls, rates, rentals, or other charges, together with interest and penalties thereon, including any delinquent fees, tolls, rates, rentals, or other charges for services rendered to a lessee, tenant, or subtenant for each affected parcel for the year. The general manager shall give notice of the filing of the report and of the time and place for a public hearing by publishing the notice pursuant to Section 6066 of the Government Code in a newspaper of general circulation, and by mailing the notice to the owner of each affected parcel.

(2) At the public hearing, the board of directors shall hear and consider any objections or protests to the report. At the conclusion of the public hearing, the board of directors may adopt or revise the delinquent fees, tolls, rates, rentals, or other charges, together with interest and penalties thereon, including any delinquent fees, tolls, rates, rentals, or other charges for services rendered to a lessee, tenant, or subtenant. The board of directors shall make its

1 *determination on each affected parcel and its determinations shall*
2 *be final.*

3 *(3) On or before August 10 of each year following these*
4 *determinations, the general manager shall file with the county*
5 *auditor a copy of the final report adopted by the board of directors.*
6 *The county auditor shall enter the amount of the delinquent fees,*
7 *tolls, rates, rentals, or other charges, together with interest and*
8 *penalties thereon, including any delinquent fees, tolls, rates,*
9 *rentals, or other charges for services rendered to a lessee, tenant,*
10 *or subtenant, against each of the affected parcels of real property*
11 *as they appear on the current assessment roll. The county tax*
12 *collector shall include the amount of the delinquent fees, tolls,*
13 *rates, rentals, or charges, together with interest and penalties*
14 *thereon, including any delinquent fees, tolls, rates, rentals, or other*
15 *charges for services rendered to a lessee, tenant, or subtenant, on*
16 *the tax bills for each affected parcel of real property and collect*
17 *the delinquent fees, tolls, rates, rentals, or charges, together with*
18 *interest and penalties thereon, including any delinquent fees, tolls,*
19 *rates, rentals, or other charges for services rendered to a lessee,*
20 *tenant, or subtenant, in the same manner as property taxes.*

21 *(4) The district may recover any delinquent fees, tolls, rates,*
22 *rentals, or other charges, together with interest and penalties*
23 *thereon, including any delinquent fees, tolls, rates, rentals, or other*
24 *charges for services rendered to a lessee, tenant, or subtenant, by*
25 *recording in the office of the county recorder of the county in which*
26 *the affected parcel is located, a certificate declaring the amount*
27 *of the delinquent fees, tolls, rates, rentals, or charges, together*
28 *with interest and penalties thereon, including any delinquent fees,*
29 *tolls, rates, rentals, or other charges for services rendered to a*
30 *lessee, tenant, or subtenant, due, and the name and last known*
31 *address of the person liable therefore. From the time of recordation*
32 *of the certificate, the amount of the delinquent fees, tolls, rates,*
33 *rentals, or charges, together with interest and penalties thereon,*
34 *including any delinquent fees, tolls, rates, rentals, or other charges*
35 *for services rendered to a lessee, tenant, or subtenant, constitutes*
36 *a lien against the affected real property of the delinquent property*
37 *owner in that county. This lien shall have the force, effect, and*
38 *priority of a judgment lien. Within 30 days of receipt of payment*
39 *of all amounts due, including recordation fees paid by the district,*
40 *the district shall file for recordation a release of the lien.*

1 ~~(e)~~

2 ~~(d)~~ In filing any instrument for recordation under this section,
3 the district shall pay the fees specified in Sections 27361 and
4 27361.4 of the Government Code.

5 ~~(e)~~ *A district shall reimburse the county for the reasonable*
6 *expenses incurred by the county pursuant to this section.*

7 ~~(d)~~

8 ~~(f)~~ The remedies in this section are *cumulative and* in addition
9 to any other remedy provided by law. *The district may pursue*
10 *remedies alternatively or consecutively.*

11 ~~(e)~~

12 ~~(g)~~ This section does not apply to delinquent fees or charges
13 for the furnishing of ~~water or sewer service to residential property~~
14 ~~or~~ electrical service.

15 SEC. 2. No reimbursement is required by this act pursuant to
16 Section 6 of Article XIII B of the California Constitution because
17 a local agency or school district has the authority to levy service
18 charges, fees, or assessments sufficient to pay for the program or
19 level of service mandated by this act, within the meaning of Section
20 17556 of the Government Code.